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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**REGION 10**1200 Sixth Avenue  
Seattle, WA 98101

APR 28 2005

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Reply To  
Attn Of: ECL-117Keith Klein, Manager  
Richland Operations Office  
U.S. Department of Energy  
P.O. Box 550 MSIN A7-50  
Richland, WA 99352**RECEIVED**  
MAY 10 2005**EDMC**Subject: Stipulated Penalty for Missed K Basins Cleanup Milestone M-034-33 and  
Notice of Violation for Failure to Follow the K Basins Sampling and Analysis Plan.

Dear Mr. Klein:

This letter notifies the U.S. Department of Energy (DOE) of the penalty EPA is assessing for violation of a Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) requirement agreed to within the Hanford Federal Facility Agreement and Consent Order (Tri-Party Agreement or TPA), specifically completion of Milestone M-034-33 for the K Basins Project. This letter is also a Notice of Violation for failure to comply with the Sampling and Analysis Plan for the K Basins Project.

Milestone M-034-33, which has a due date of March 1, 2005, requires the following:

Containerize K East Sludge, all K East sludge is placed in containers.  
Sludge containerization initiation (10/31/2004)  
Sludge containerization complete (03/01/2005)

While EPA understands that approximately 50 percent of the sludge has been containerized to date, significant quantities of this material remain in the basin and therefore sludge containerization work has not been completed in accordance with the milestone. This is a critical path task in completing remediation activities in the K Basin. DOE has not requested, and EPA has not granted an extension for, completion of this work pursuant to TPA Article XI, Good Cause for Extension.

Under TPA Article XX, the U.S. Environmental Protection Agency (EPA) may assess a penalty of up to \$5,000 for the first week and \$10,000 for each additional week (or part thereof) for any failure to comply with a term or condition of Part Three of the TPA that relates to an interim or final remedial action. Pursuant to TPA Article XX, EPA is assessing a stipulated

penalty for the period through April 26, 2005, in the amount of \$75,000 for failure to complete sludge containerization by March 1, 2005. We expect that DOE will continue to work towards completion of the containerization task as a critical step in achieving the subsequent Milestone M-034-34, which requires complete removal of K East sludge by January 31, 2006.

Under paragraph 73 of the Tri-Party Agreement, DOE has fifteen days upon receipt of this letter to invoke dispute resolution regarding assessment of the stipulated penalty. The DOE can invoke dispute resolution only on the question of whether the failure to comply did in fact occur. The amount of the penalty is not subject to dispute resolution.

If DOE does not invoke dispute resolution within fifteen days of receipt of this letter, DOE shall submit a check payable to the Hazardous Substances Superfund within sixty days of receipt of this letter, or such other time agreed to by EPA in writing, for the full amount of the stipulated penalties assessed in this letter. This check must be sent to:

Mellon Client Services Center  
U.S. Environmental Protection Agency, Region 10  
500 Ross Street  
P.O. Box 360903M, SF  
Pittsburgh, Pennsylvania 15251-6903

The letter transmitting the check should indicate that the check is for the Hanford Site and include site identification No. 10-97. A copy of the transmittal letter should be sent simultaneously to:

Nicholas Ceto  
U.S. Environmental Protection Agency  
309 Bradley Boulevard, Suite 115  
Richland, Washington 99352

Regarding the second matter addressed by this letter, a Notice of Violation is hereby issued for failure to follow the DOE and EPA approved Sampling and Analysis Plan for the K Basins CERCLA remedial action.

On June 20, 2000, the EPA approved the Sampling and Analysis Plan for K Basins' Debris, Revision 0, dated June 9, 2000. That document identified the method to be used to survey containers of K Basins debris and also specified how that survey information was to be used to designate the waste. The basis of the approved survey method was a dose rate to Curie (radionuclide content) approach to waste designation. Compliance with the approved plan is important to ensure, among other things, that wastes are properly designated and disposed of in accordance with CERCLA requirements. It is important that waste placed in disposal facilities, including the Environmental Restoration Disposal Facility (ERDF), meet waste acceptance criteria. Assuring that waste disposed of at ERDF meets acceptable criteria is critical to the performance of this facility, and to maintaining public trust in our ability to manage Hanford

cleanup waste in a manner that protects workers and the public and meets environmental standards.

On March 15, 2001, the EPA approved a revision to K Basins' Debris Sampling and Analysis Plan. The principal change to the plan was adoption of a weight-to-Curie (rather than dose-to-Curie) method to characterize and designate waste. The basis for the newer approach was that the proportion of radionuclides and their distribution on debris waste from the basins was dependent on the contamination of water in the basin from which the debris was retrieved. Monthly water samples would be utilized to determine the continued applicability of the weight to Curie relationships. Section 2.2.6 of the revised Sampling and Analysis Plan identified the requirements for water sampling and the criteria to trigger a recalculation of weight-to-Curie or dose-to-Curie relationships.

The same month the revision to the Sampling and Analysis Plan was approved, March 2001, water quality in the K West basin changed significantly and has been out of established limits since then. The DOE failed to recalculate the weight-to-Curie or dose-to-Curie relationship based on changes in water chemistry in violation of the approved sampling and analysis plan. From April 2002 to September 2004, 357 waste boxes of debris removed from the basins were shipped to ERDF having been improperly characterized. Many of those boxes were buried prior to discovery of this error in waste characterization.

When this violation was identified, EPA was notified and DOE and its contractors have taken steps to determine if in fact any waste that does not meet ERDF waste acceptance criteria was disposed at ERDF. EPA is currently reviewing the results of this effort and will determine whether further action is necessary regarding this violation when that review has been completed. As noted above, it is critical that waste disposed at ERDF meet waste acceptance criteria.

Please contact Larry Gadbois at 509-376-9884 if you have any questions regarding either of these matters.

Sincerely,



Daniel D. Opalski, Director  
Office of Environmental Cleanup

cc: Paul Pak, DOE  
Mike Wilson, Ecology  
Pete Knollmeyer, Fluor Hanford  
Administrative Record, 100-KR-2